

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

THOMAS LAUGHNER,	)	
	)	
Plaintiff,	)	4:07CV3060
	)	
v.	)	
	)	
DAN NIVINS, Both	)	<b>MEMORANDUM</b>
Official/Individual Capacity, DON	)	<b>AND ORDER</b>
COFFMAN, Both Official/Individual	)	
Capacity, DEPARTMENT OF	)	
CORRECTIONS, KATHY MARSH,	)	
Dr., Both Official/Individual	)	
Capacity, and RICK MCNEESE, Dr.,	)	
Both Official/Individual Capacity,	)	
	)	
Defendants.	)	

This matter is before the court on its own motion. On November 5, 2007, the court entered an order requiring Plaintiff to consolidate his claims into a third amended complaint for service on Defendants. (Filing No. 25.) Plaintiff timely filed his third amended complaint on November 16, 2007. (Filing No. 26.) On November 28, 2007, Plaintiff filed a supplement to his third amended complaint. (Filing No. 27.)

The court finds that Plaintiff has complied with its November 5, 2007 memorandum and order and that service on Defendants is now warranted. Additionally, Plaintiff's supplement (filing no. 27) will be treated as a motion and is hereby granted.

1. Filing No. 27, treated as a motion to supplement Plaintiff's third amended complaint, is granted.

2. To obtain service of process on Defendants, Plaintiff must complete and return the summons forms which the Clerk of the court will provide. The Clerk of the court shall send ELEVEN (11) summons forms and ELEVEN (11) USM-285 forms (for service on Defendants in both their individual and official capacities) to Plaintiff together with a copy of this memorandum and order. Plaintiff shall, as soon as possible, complete the forms and send the completed forms back to the Clerk of the court. In the absence of the forms, service of process cannot occur.

3. Upon receipt of the completed forms, the Clerk of the court will sign the summons forms, to be forwarded with a copy of the third amended complaint and supplement to the U.S. Marshal for service of process. The Marshal shall serve the summons and third amended complaint and supplement without payment of costs or fees. Service may be by certified mail pursuant to Fed. R. Civ. P. 4 and Nebraska law in the discretion of the Marshal. The Clerk of the court will copy the third amended complaint and supplement, and Plaintiff does not need to do so.

4. Fed. R. Civ. Pro. 4 requires service of the complaint on a defendant within 120 days of filing the complaint. However, because in this order Plaintiff is informed for the first time of these requirements, Plaintiff is granted, on the court's own motion, an extension of time until 120 days from the date of this order to complete service of process.

5. Plaintiff is hereby notified that failure to obtain service of process on a defendant within 120 days of the date of this order may result in dismissal of this matter without further notice as to such defendant. A defendant has twenty (20) days after receipt of the summons to answer or otherwise respond to a complaint.

6. The Clerk of Court is directed to set a pro se case management deadline in this case with the following text: "April 13, 2008: Check for completion of service of summons."

7. The parties are bound by the Federal Rules of Civil Procedure and by the Local Rules of this court. Plaintiff shall keep the court informed of his current address at all times while this case is pending. Failure to do so may result in dismissal.

December 13, 2007.

BY THE COURT:

s/ Joseph F. Bataillon  
Chief United States District Judge